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In re Application of
Andreas Giefer
Application No. 09/600,832
Filed: July 21, 2000
Attorney Docket No.: 67526
For: SLOT COVER OF A SHIFTING DEVICE

DECISION ON PETITION
UNDER 37 CFR §1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed June 24, 2005 to invoke supervisory review of the Office action mailed June 7, 2005.

The petition is **DISMISSED**.

The record reflects that on June 7, 2005 an Office action was mailed indicating that the proposed amendment(s) of May 20, 2005 filed after an Ex parte Quayle action would not be entered because the proposed amendments in the specification and the replacement sheets of the drawings raise the issue of new matter.

Applicant first argues that the examiner's requirement to add the reference numeral 20 to Fig. 4 is improper as the reference numeral 20 is shown in Figs. 6 and 7. Next, applicant argues that the new matter issues raised by the examiner are not proper. Specifically, applicant argues: (1) that the new description of "a selector lever 8 connected to kinematics 17, which is in turn connected to transmission 18" is not new matter as the originally filed claim 1 indicates the possibility of such an arrangement; and (2) that the adding of the "elastic portion 12, the hall sensors 14, permanent magnets 13 and bracket 15" are not new matter since the changes to the drawings do not and are not intended to narrow the claims but rather show an embodiment of the features described in the specification and claims.

MPEP 608.04(a) sets forth that matter not in the original specification, claims, or drawings, is usually new matter. In the instant application page 2 and claim 1 of the originally filed specification indicate that the selector lever is connected to kinematics which are connected to the transmission so the recitation of "a selector lever 8 connected to kinematics 17, which is in turn connected to transmission 18" is not new matter.

With respect to the addition of the reference numeral 12 to Fig. 3, page 3 of the originally filed disclosure states that "it is not absolutely necessary to make the entire louver elastic in this case, but it sufficient for part of the loop to be elastic. These may be preferably narrow loops of the louver." Accordingly, the addition of reference numeral 12 to Fig. 3 is not considered to be new matter. Page 3 of the originally filed disclosure also states "signal transmitter, whose signals are detected by signal receivers arranged at spaced locations, may be arranged at the deflecting elements. The principle, which functions similarly to the tachometer, may be embodied, e.g., by means of Hall sensors and permanent magnets". However, the originally filed specification does not describe nor illustrate the exact locations of the Hall sensors 14 and the permanent magnets 13 relative to the other components of the invention nor set forth the number of hall sensors 14 and the permanent magnets 13. Therefore, since the proposed addition of these elements to Fig. 3 is more detailed than the originally filed disclosure, proposed Fig. 3 is considered to contain new matter. While Fig. 3 is considered to contain new matter a black box diagram may be utilized to illustrate the claimed magnets and Hall effect sensors.

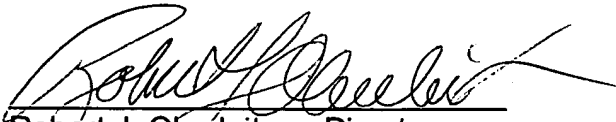
Next, applicant argues that the addition of bracket 15 to Fig. 7 is not new matter. While the originally filed specification states on page 6 that "the support structure itself being fastened on the shifting device or on the slot cover with a bracket, which allows a lateral movement of the slot cover," there is no specific detail of the structure or location of the bracket. Therefore, since the proposed addition of the bracket to Fig. 7 is more detailed than the originally filed disclosure, proposed Fig. 7 is considered to contain new matter.

With respect to the requirement that Fig. 4 be amended to add the reference numeral 20, the requirement is considered improper as the reference numeral is shown in Figs. 6 and 7.

The petition is **DISMISSED**.

The period for response to the Office action mailed June 7, 2005 continues to run.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** from the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

A handwritten signature in cursive script, appearing to read "Robert J. Oberleitner", written over a horizontal line.

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